

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JAMES M. WASHINGTON,

Plaintiff,

Case No. 21-12202

v.

HON. DENISE PAGE HOOD

HEIDI E. WASHINGTON, et al.,

Defendants.

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**ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION (ECF NO. 24),  
GRANTING DEFENDANTS' MOTION TO DISMISS AND  
FOR SUMMARY JUDGMENT (ECF NO. 15)  
AND  
DISMISSING ACTION**

This matter is before the Court on Magistrate Judge Kimberly G. Altman's Report and Recommendation (ECF No. 24) regarding a Motion to Dismiss and for Summary Judgment filed by Defendants Heidi E. Washington, Kenneth McKee, Willis Chapman, George Stephenson, Malanie Wright, Unknown Sanders, and Kristopher Steece (ECF No. 15). To date, no Objections have been filed to the Report and Recommendation and the time to file such has passed.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a *de novo* determination of those portions of the report or the specified proposed findings or

recommendations to which an objection is made.” 28 U.S.C. § 636(B)(1)©. The Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate.” *Id.* In order to preserve the right to appeal the Magistrate Judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

After review of the April 6, 2023 Report and Recommendation, the Court finds that the Magistrate Judge’s conclusions are correct. The Court agrees with the Magistrate Judge that Plaintiff’s claims against Defendants Wright and Sanders have not been exhausted. The claims against Defendants Wright and Sanders are dismissed without prejudice for failure to exhaust.

The Court further agrees with the Magistrate Judge that the claims against Defendants Washington, McKee, Chapman, Stephenson and Steece, identified in MRF-0592, have been exhausted and are not subject to dismissal for failure to exhaust. However, as to these exhausted claims the Court agrees with the Magistrate Judge’s conclusion that Plaintiff failed to state a plausible claim under the Eighth

Amendment of deliberate indifference of a serious medical need against Defendants Washington, McKee, Chapman, Stephenson and Steece. Plaintiff's claims against these Defendants are dismissed with prejudice.

Accordingly,

IT IS ORDERED that Kimberly G. Altman's April 6, 2023 Report and Recommendation (**ECF No. 24**) is **ACCEPTED AND ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss and for Summary Judgment (**ECF No. 15**) is **GRANTED** as set forth above.

IT IS FURTHER ORDERED that Defendants Malanie Wright and Unknown Sanders are **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that Defendants Heidi Washington, Kenneth McKee, Willis Chapman, George Stephenson and Kristopher Steece are **DISMISSED** with prejudice.

IT IS FURTHER ORDERED that this action is **DISMISSED** as set forth above and designated as **CLOSED** on the Court's docket.

s/Denise Page Hood

Denise Page Hood  
United States District Judge

Dated: September 29, 2023